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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,237	12/28/2001	Duane D. Grosskrueger	41992-00527	3353
25231	7590	03/12/2004	EXAMINER	
MARSH, FISCHMANN & BREYFOGLE LLP 3151 SOUTH VAUGHN WAY SUITE 411 AURORA, CO 80014			NOLAN, SANDRA M	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/036,237	GROSSKRUEGER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sandra M. Nolan	1772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003 (C.O.M. dated 12-15-03).
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claims***

1. Claims 14-24 are pending.

### ***Rejections Withdrawn***

2. The 35 USC 112 rejection of claims 14-24 for indefiniteness, as set out in section 6 of the 15 September 2003 office action, is withdrawn in view of applicants' amendments to the claims in the response dated 18 December 2003.
3. The 35 USC 112 rejection of claim 18 for indefiniteness, as expressed in section 7 of the 15 September 2003 office action, is withdrawn in view of applicants' amendments to the claims in the 18 December 2003 office action.

### ***Rejections Maintained***

4. The 35 USC 103 rejection of claims 14-17, 20-21 and 23-24, over Happy (US 5,935,704) in view of Corbett et al (US 5,895,699), as set out in section 10 of the 15 September 2003 office action, is withdrawn in view of applicants' amendment in the 18 December 2003 response.

### ***New Objection***

5. Claim 19 is objected to for the following informality:

The phrase "partial layer" at line 2 of the claims should be "partial layers" (plural), so that the phrase agrees grammatically with "layers" recited earlier in the line.

### ***New Rejections***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

If the first and second thicknesses are different (per line 4 of claim 15), how can the thicknesses of the first and second positions be the same (per line 15 of claim 14)?

Please clarify.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Happy in view of Corbett and Schmaling (US 4,793,727).

Happy and Corbett are relied upon as discussed in section 10 of the 15 September 2003 office action. They fail to teach the production of composites in which the first and second portions of the composite have the same thickness.

Schmaling teaches composite joints in which the first layer **18** and the second layer **27**, which are portions of the overall composite **9** having a core **30**, have the same thickness. See Figure 3 and col. 2, lines 19-22 and 64-68.

It teaches that the use of the same thickness in these locations gives an aerodynamic surface (col. 2, lines 64-68).

Happy, Corbett and Schmaling are analogous because they all teach the production of composites.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the same thickness technique of Schmaling, when making composites based on the combination of Happy and Corbett, as explained in section 10 of the 15 September 2003 office action, in order to give the resultant composite an aerodynamic surface.

It is deemed desirable to make a composite that has an aerodynamic surface so that it is useful in aerodynamic applications.

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 14-24 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Final Rejection***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 571/272-1495. She can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time. If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498.

The fax number for patent application documents is 703/872-9306.



S. M. Nolan  
Primary Examiner  
Technology Center 1700

SMN/smn  
10036237(20040309)